

THOMAS N. STEWART, III - #88128
ATTORNEY AT LAW
369 BLUE OAK LANE, 2nd FLOOR
CLAYTON, CA 94517
TELEPHONE (925) 672-8452
TELEFAX (925) 673-1729
Attorneys for William Tranquilli

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILLIAM TRANQUILLI,

Case No. 1:05-CV-592-OWW-DLB

Plaintiff,

REQUEST AND ORDER TO FILE SECOND
AMENDED COMPLAINT

v.

WARREN and DIANE TIBBS, as
Trustees of the TIBBS FAMILY
TRUST,

Defendants.

_____ /

Plaintiff submits the following Request and Order to file his Second Amended
Complaint:

This case is brought pursuant to the Americans with Disabilities Act. Plaintiff is a disabled wheelchair user. Defendant is the owner of a shopping center in the City of Fresno which contains a Restaurant. When Plaintiff patronized the Restaurant on March 18, 2005, he was unable to get his wheelchair into the toilet stall because of its improper configuration.

Plaintiff seeks an injunction, damages and attorneys' fees.

As initially filed, the Complaint inadvertently contained an allegation that the parking situation at the shopping center constituted a barrier. The First Amended Complaint eliminated that allegation.

Once the First Amended Complaint was mailed to the Defendant, an agent for the Defendant pointed out to Plaintiff's counsel that Plaintiff had inadvertently sued the owner of the real property at 367 *West* Shaw Avenue, as opposed to the owner of the real property at 376 *East* Shaw Avenue, which is where the shopping center is located.

The only change in the Second Amended Complaint, a copy of which is attached hereto, is to delete the existing Defendants and substitute the correct name the owner of the shopping center at 367 *East* Shaw Avenue as "Mission Village, a Limited Partnership."

Wherefore, Plaintiff asks this Court to execute the below Order, allowing the Second Amended Complaint to be filed.

May 25, 2005

____S/Thomas N. Stewart, III_____
Attorney for Plaintiff

IT IS SO ORDERED

Date: 5/26/05

____/s/ OLIVER W. WANGER_____
Judge